

# State

# Conservation

# Agreements

CREATING EFFECTIVE PARTNERSHIPS  
FOR PROACTIVE CONSERVATION



**A National Policy Dialogue sponsored by  
the International Association of Fish and Wildlife Agencies**

# THE INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

was founded in 1902 as a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the United States, Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

The State Conservation Agreements Project was sponsored by the Threatened and Endangered Species Policy Committee of IAFWA. The Committee was chaired by Pat Graham (Montana Department of Fish, Wildlife & Parks) at the beginning of the project, and is now chaired by John Baughman (Wyoming Game & Fish Department).

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# STATE CONSERVATION AGREEMENTS:

creating local and regional partnerships  
for proactive conservation

**A summary report of a national policy dialogue sponsored by  
the International Association of Fish and Wildlife Agencies**

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**T**his is the story of a national policy dialogue undertaken from November 2000 through July 2001 to understand how we can do a better job of harnessing our collective resources—monetary, property, scientific knowledge, local experience, intelligence, creativity, time, and voluntary spirit—to conserve our natural heritage.

How can we best help other species persist into the future?

What can we do together to assure the health of ecological systems on which we mutually depend?



## Executive Summary

This report synthesizes the results of a series of national and regional workshops organized by a project team from the Threatened and Endangered Species Policy Committee of the International Association of Fish and Wildlife Agencies (IAFWA). The workshops engaged a wide range of stakeholders in a dialogue about proactive approaches to conservation, including representatives of state and federal agencies, conservation organizations, and industry, as well as scientists and private landowners.

In two national workshops, state and federal agency representatives reviewed conservation efforts since the passage of the Endangered Species Act (ESA) in 1973. They recognized a pressing need to work sooner to stop species decline rather than relying solely on ESA regulation. At present, state agencies' funding for conservation of nongame species is devoted overwhelmingly to listed species, while federal regulatory agencies are largely occupied with the lengthy listing process, responding to litigation, and completing regulatory actions such as Section 7 consultations. It is unlikely under existing funding regimes that the ESA's species-by-species approach to conservation can handle the array of species that are declining.

Their analysis led participants to draft a concept for a conservation tool that they called "State Conservation Agreements" (SCAs). Workshop participants visualized a tool that states would take the lead in using, that could facilitate cross-jurisdictional agreements, and that could be flexibly targeted to conservation of individual species, suites of species, ecological communities, or broad ecological systems. The primary purpose of the tool, however, would be to focus resources on the conservation of species that are not yet so imperiled as to require listing. SCAs could enable states and communities to get in front of the curve of species decline and use conservation resources more efficiently while allowing more management flexibility than is possible when species are in danger of extinction. The tool could provide a means to focus voluntary efforts and foster incentive-based approaches to conservation. National workshop participants saw this "prevention" approach as complementing, but not replacing, the ESA's "emergency room" treatment for threatened and endangered species. They affirmed that both approaches are needed to ensure that species will persist into the future.

At six regional workshops across the United States, representatives of a variety of stakeholder groups and agencies drew from their own experience with conservation to identify the necessary elements of a proactive approach. They then reviewed and refined the SCA concept from the national workshops, and went on to envision using the approach to conserve at-risk species and ecological systems of concern in their respective regions. They listed existing incentives for participating in proactive conservation agreements and suggested the creation of other incentive mechanisms.

Based on participant input and the results of testing the idea on cases of regional significance, the SCA Planning Team finalized a draft concept for State Conservation Agreements to be taken for review to the IAFWA. The planning team hopes that the flexibility of the concept addresses the primary concerns and interests of the workshop participants, and accommodates the regional differences in cultural, political, social, and ecological systems and economies. The draft tool begins on page 29 of this report. A record of the team's decision process as they reached a consensus on the SCA concept concludes this report.

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## Guide to acronyms used in this report

CCA	Candidate Conservation Agreement
CCAA	Candidate Conservation Agreement with Assurances
ESA	Endangered Species Act
IAFWA	International Association of Fish and Wildlife Agencies
HCP	Habitat Conservation Plan
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NEPA	National Environmental Protection Act
NGO	Non-Governmental Organization (usually refers to a conservation organization)
NRCS	Natural Resource Conservation Service (an agency of the USDA)
NMFS	National Marine Fisheries Service
PECE	Policy for the Evaluation of Conservation Efforts
SCA	State Conservation Agreement
SHA	Safe Harbor Agreement
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service
"The Services"	Refers to the federal regulatory agencies--USFWS and NMFS--together



# HISTORY OF THE SCA PROJECT

**In 1973, Congress passed the Endangered Species Act (ESA)**, a landmark piece of legislation that embodied changes in the way that we as a nation think about the species that inhabit ecological systems with us. Seeing the unprecedented rate of species endangerment—in significant part because of human practices within ecological systems—the public supported protection for species threatened with extinction. The Act provides “emergency room” care for species in crisis, administered by the Department of the Interior’s U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS).

## Why a dialogue was needed: the problem

The ESA has helped stop the precipitous decline of some species and has helped recover others, but a complex web of biological, social, economic, and political difficulties has also emerged.

✧ The ESA tends to be crisis-oriented, reduces management flexibility, and is cost-intensive. We wait too long to implement conservation measures for species in decline. Addressing species before they are faced with extinction would provide greater flexibility to use more cost-efficient management methods.

✧ Conflicts have arisen between states, federal agencies, local communities, and private citizens. States have statutory authority to manage wildlife, for example, but when a species is listed, federal involvement in management increases and becomes more prescriptive. States and local communities may lose control over management decisions but they retain significant implementation responsibilities.

✧ State and federal agencies lack sufficient funding for proactive efforts to conserve declining species since their budgets are concentrated on listed and game species. Frustrated environmental groups resort to litigation to force conservation, however, litigation achieves mixed outcomes as agencies divert resources away from critical on-the-ground conservation projects in order to prepare court cases and comply with rulings.

✧ Federal and state agencies have a responsibility to conserve species. However, species will not survive if government-owned land is their only refuge—there is not enough acreage or the connectivity that some species require. In some cases, the only remaining habitat and species populations are on private lands. Habitat conservation efforts by private landowners and industry are needed to ensure the survival of many species.

✧ Species have become the focus of conflicts over land use. Some people see the ESA as a means to regulate land use. Landowners who otherwise want to be good stewards fear that they will encourage endangered species to take up residence, and they’ll face restrictions in the future for having done a good deed.

✧ A single-species focus can create management conundrums when two endangered species are trying to inhabit the same area but have conflicting habitat requirements.

The ESA is nearly 30 years old. Despite these difficulties, the public still overwhelmingly supports the intent of the law—to protect imperiled species and their habitats.

### Our accumulated experience reveals the critical need for:

- ✧ redirecting resources from litigation to conservation;
- ✧ approaches that focus on keeping intact the ESA’s ability to help individual species that are in crisis so they don’t fall through the cracks;
- ✧ additional knowledge about conservation requirements of species and systems;
- ✧ a “prevention” approach for rare species that allows management flexibility and is cost-efficient;
- ✧ multi-jurisdictional cooperation that enables information sharing and leveraging of resources;
- ✧ funding dedicated to conservation of rare and declining species that does not diminish allocations for endangered species protection and recovery; and
- ✧ effective public-private partnerships for conservation.

**By the late 1990s**, state and federal agencies were working to develop ways of keeping species out of the “emergency room.” They believed that a prevention approach would be more effective and—based on incentives rather than a regulatory hammer—could harness the voluntary spirit of the public to help stem the tide toward species extinction.

Several state wildlife agencies had already initiated voluntary conservation agreements with a variety of partners, including landowners, conservation groups, business and industry, and federal agencies. These agreements focused primarily on imperiled species that were not yet federally listed. Meanwhile, the USFWS and NMFS developed mechanisms for states to hold different types of umbrella conservation agreements for listed and candidate species, and then use certificates of inclusion for private interests.

All of these efforts were loosely referred to as “conservation agreements,” but there was no general concept about exactly what these were, or when to apply them. Furthermore, judicial rulings reversed several USFWS decisions not to list species on the basis of proactive conservation efforts. Enthusiasm for proactive conservation dampened in some states, and fear developed that any proactive efforts for species would draw the attention of potential petitioners and litigants, and inevitably lead to federal regulation.

## **A project to improve conservation options**

In March 1998, members of the Threatened and Endangered Species Policy (T&E) Committee of the International Association of Fish and Wildlife Agencies (IAFWA) wrestled with how to address the many different priorities for conservation that were being established through law, litigation, policy, force of persuasion, and budget decisions. They identified three trends:

1. Merely identifying a species as a possible candidate for federal listing virtually ensures that it will be treated as such. Once a species is swept up into the ESA listing process, whether as a candidate or as listed, priorities become clear. The legal obligations of the listing process, coupled with insufficient funds to promote recovery, were increasingly leading to gridlock.

2. The array of unlisted, non-candidate species was so great, and the overall trend toward imperilment of many of them so clear, that even tighter gridlock was inevitable. Agency funding requests and budget allocation priorities are driven by listing, and at the same time listing provides an argument for greater funding, so the combined forces would inexorably march stakeholders toward more of the very train wrecks that so many want to avoid.

3. The priorities of government agencies often conflict, and the available financial resources were not being spent very efficiently or effectively.

The \$64,000 question became, “How might government agencies and private interests step up to the plate and begin conserving potential candidates for listing sufficiently so that no one would feel compelled to try to list them?” The underlying questions included: What mechanisms could be used for such conservation efforts? Who would lead? Who would cooperate? How would these efforts work with existing conservation efforts for listed species? How could they be funded? Given the number of imperiled species and ecological systems, which would be priorities?

Committee members spent two years discussing these issues. They decided to initiate a national dialogue to help state and federal agencies develop more effective working relationships. They also wanted to hear from a wide variety of government and private interests about their experiences, concerns, and ideas. They were not trying to re-write the ESA, rather, they hoped the dialogue would lead to a common understanding of how proactive conservation efforts could complement the ESA in efforts to conserving our natural heritage.

A project planning team from IAFWA’s T&E Committee formed and sponsored two national and six regional workshops across the United States from November 2000 to June 2001. All told, more than 200 individuals representing a wide variety of groups participated. Their ideas resulted in a concept of “State Conservation Agreements” (SCAs) as flexible, proactive conservation tools that would focus efforts on common or declining species and their ecological communities, as well as suites of associated species. The SCA tool would complement rather than replace the regulatory framework established by the ESA, using incentive-based partnership approaches. And it would require the dedication of additional resources, rather than reallocating funding away from endangered species preservation and recovery efforts. In short...

the dialogue envisioned State Conservation Agreements as taking a “preventative medicine” approach to conservation of species and ecological systems so that fewer species reach the point of needing the “emergency-room care” of the ESA.



## THE NATIONAL WORKSHOPS: REVIEWING THE RECORD OF SPECIES CONSERVATION TO DATE AND OUTLINING A CONCEPT FOR STATE CONSERVATION AGREEMENTS

*National workshops were held in Shepherdstown, West Virginia, and Tucson, Arizona in November 2000. The SCA Planning Team invited representatives of state and federal agencies to participate, and charged them with:*

- ✎ reviewing and assessing conservation efforts to date, both under the Endangered Species Act and using the early proactive approaches under development in various regions of the United States in the latter part of the 1990s,*
- ✎ deriving a set of findings that would provide a basis for conceptualizing how to improve future efforts; and*
- ✎ developing a common understanding of State Conservation Agreements and when to undertake them.*

*Workshop speakers gave information on ESA listing factors, the conservation tools currently available under ESA policy, six case studies of proactive conservation agreements developed in the 1990s, the record of case law concerning these agreements, and the draft Policy for the Evaluation of Conservation Efforts (PECE) that the USFWS and NMFS are developing to identify the criteria the Services will use to evaluate conservation efforts as they make listing decisions.*

*Participants took lessons from these presentations, assessing factors that lead to both failure and success of proactive efforts and agreements. They also talked about ways to improve their ability to partner with each other for conservation efforts, and explained what each wanted to accomplish in developing a state-led conservation tool.*

*They drafted a concept for State Conservation Agreements that would serve as a starting point for discussion in planned-for regional meetings. They suggested that SCAs might be most usefully developed around species in decline but not so imperiled as to be on the verge of needing to be listed.*

# Conservation and the Endangered Species Act

## The Status of Species in the United States

The Nature Conservancy has ranked 44,359 of the 204,700 described plant and animal species in the United States. Of these, 10,224 are at risk; 5,000 are imperiled. As of January 23, 2001, there are 1,233 species listed as threatened or endangered by the USFWS and NMFS. An additional 56 species have been proposed for listing, and 283 species are candidates for listing.<sup>1</sup>

## The Basis for ESA Listing Decisions

The Secretary of the Interior or Commerce is required to determine whether a species is endangered or threatened because of any of the following five factors: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) over-utilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and/or (5) other natural or human-made factors affecting its continued existence.

The Secretary must make listing decisions:

- ☼ solely on the basis of the best scientific and commercial data available after conducting a review of the status of the species, and
- ☼ after taking into account those efforts, if any, being made by any state or foreign nation, or any political subdivision of these entities, to protect the species, whether by predator control, protection of habitat and food supply, or other conservation practices within any area under its jurisdiction, according to Section 4(b)(1)(A) of the ESA.

## The ESA Listing Process<sup>2</sup>

The Services follow federal rulemaking procedures and specific ESA requirements to determine whether to list a species. A formal peer review process and an opportunity for public comment help the Services to obtain the best scientific information for their decisions. Because of the large number of imperiled species and the time involved in listing a species, the Services have developed a priority system to direct their efforts to those plants and animals in greatest need.

## Species Endangerment Categories Used by the Services

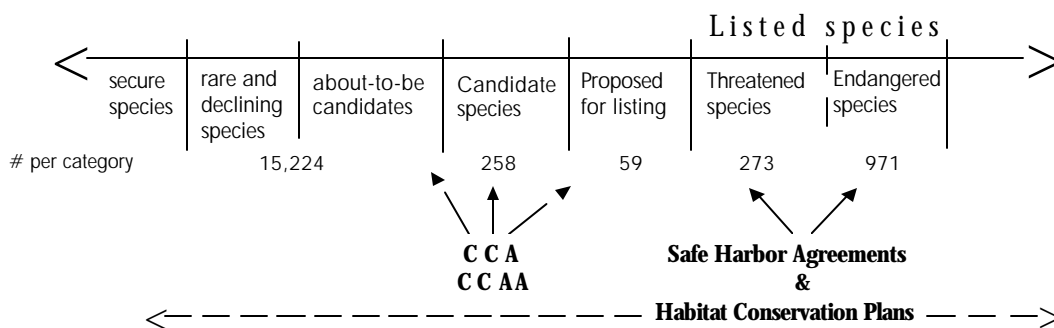
An “**Endangered species**” is any species which is in danger of extinction throughout all or a significant portion of its range. A “**Threatened species**” is any species that is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. “**Candidate species**” are plants and animals for which the USFWS has sufficient information on their biological status and threats to propose them as endangered or threatened, but other species are currently of higher priority for the lengthy listing process. “**Proposed species**” are species for which a proposal for listing has been published in the *Federal Register* by the Services. NMFS, which has jurisdiction over most marine species, defines Candidate species more broadly to include species whose status is of concern but more information is needed before they can be proposed for listing.

The USFWS regularly publishes a “Notice of Review” in the *Federal Register* that updates the roster of plants and animals native to the United States that are regarded as candidates for possible listing. NMFS periodically publishes a list in the *Federal Register* of species it regards as candidates.

## Tools for Partnering with Private Landowners

As they developed policies to administer the ESA, the Services realized that they needed ways to partner with landowners who want to do good things for species in order to maintain viable populations of species. Candidate Conservation Agreements (CCAs), Candidate Conservation Agreements with Assurances (CCAAs), Safe Harbor Agreements (SHAs), and Habitat Conservation Plans (HCPs) can help species because they encourage landowners and other partners to make decisions about conservation actions that they may not otherwise have made. CCAAs, SHAs, and HCPs provide assurances about future regulatory actions through permits that the Services issue. These tools are useful at different points along the continuum of species status as shown below. A chart explaining and comparing these tools is provided on pages 34-35.

## Continuum of Species Status and Existing Conservation Tools



NOTE: Dotted lines denote additional possibilities for application of the tool.

<sup>1</sup> Sources: ABI/TNC/NHP and USFWS, 2000—information provided by Mark Bosch, USDA Forest Service.

<sup>2</sup> Information summarized from USFWS publications, “Candidate Species and Candidate Conservation Agreements with Assurances for Private Property Owners” and “Our Endangered Species Program and How It Works With Landowners.”

# Proactive Conservation Efforts

## Case Studies of Proactive Conservation Agreements

State wildlife agencies and the Services began developing voluntary agreements among stakeholders for the conservation of not-yet-listed species in order to stop their decline. They used Candidate Conservation Agreements, Memorandums of Agreement (MOAs) and/or Memorandums of Understanding (MOUs) to formalize their agreements. National workshop participants heard six case studies, summarized below, illustrating the range of early experiences with these agreements.

### BARRENS TOPMINNOW *Fundulus julista*

This species was formally described in 1982. By 1997, only two locations of populations in the wild were known, both on private land. A captive population was also being maintained by two conservation organizations--the Tennessee Aquarium and Conservation Fisheries. A conservative, anti-government atmosphere exists where the species ranged historically. Since the known wild populations were all on private land, the USFWS believed that a CCA would be the best strategy to achieve conservation. In the meantime, along with the USFWS, Tennessee's Wildlife Resources Agency and Department of Agriculture, as well as the local office of the Natural Resource Conservation Service (NRCS) began initiating conservation activities for the species on private land. USFWS provided funding and technical assistance. An MOA identified parties who actively wished to participate in the conservation strategy, and a CCA is under development. The keys to the success of this effort were the simple management needs of the barrens topminnow, and being flexible and attentive to landowner needs and attitudes.

### BARTON SPRINGS SALAMANDER *Eurycea sosorum*

This aquatic salamander is found only at Barton Springs in Austin, Texas. It was recognized as a species in 1993 after it was petitioned for listing in 1992. A state-led conservation agreement designed to reduce threats and so preclude the need to list was signed in 1996, and the USFWS determined that listing the species was unnecessary because of the agreement. That decision was challenged in court. The court found that the conservation agreement did not provide a sufficient basis for the decision not to list because while it identified potential threats to the salamander, it did not provide for certainty that proposed conservation actions would be implemented or that they would significantly reduce the immediate threats to the species. Finally, public comment on the agreement was not solicited. The court required the Secretary of the Interior to list the species. The Secretary did not appeal the court decision, which disappointed the Texas partners. They lost momentum in recovery actions, and their willingness to do future voluntary conservation agreements is in doubt.



BLACK-TAILED PRAIRIE DOG

### BLACK-TAILED PRAIRIE DOG *Cynomys ludovicianus*

The National Wildlife Federation filed a petition to list this species in July 1998. The USFWS issued a "warranted but precluded" decision in February 2000. Threats to the prairie dog include present and potential habitat destruction: 60% of the prairie dog's grassland habitat is gone; 57-million acres are currently unplowed but have agricultural potential, however, a greater problem is urbanization. Sylvatic plague has sporadic recurrence in populations, and no cure or vaccine has been found. Regulatory mechanisms across states were varied and inadequate. In November 1999, an 11-state conservation team was established, with an MOU signed by nine states in February 2000. Nine Native American tribes formed a consortium and agreed to work with the states but at the same time pursue their own agreement. An implementation schedule was developed, and a conservation and assessment strategy was completed in November 1999. There was no active state management program in most states prior to the MOU. The prairie dog was listed as an agricultural pest in four states. Year-round shooting was allowed in all 11 states where it is found; seven states required a license. The different regulatory approaches presented a challenge: how might they be blended in a coordinated conservation effort? The goal of this conservation agreement is to conserve viable prairie dog populations by: gathering, sharing, and disseminating information; identifying and maintaining suitable habitat; allowing for innovative adaptive management; and getting rid of statutory inhibitions to conservation. Most states now have at least a draft plan for conservation with rough estimates of occupied acreage.



#### COPPERBELLY WATERSNAKE *Nerodia erythrogaster neglecta*

This snake was proposed for listing in 1993 by USFWS. The proposal was extended more than once because of lack of information and then a moratorium was placed on listing in 1996. While the regulatory hammer was waiting, Kentucky Department of Fish and Wildlife Resources (KDFWR) convened a meeting of potentially-affected stakeholders from Illinois, Indiana, and Kentucky, including developers, representatives of the coal mining association and the Farm Bureau, urban leaders, and others. USFWS set a 65-day deadline to develop the agreement in order for it to be considered in the listing decision. The participants developed a conservation agreement that describes: species status; threats to the snake; a list of other wildlife that the agreement would help; and how to address threats, including public outreach and education. The agreement term is five years. There are 31 conservation team members, headed by the Director of Wildlife for KDFWR. Everyone treats the snake as if it were listed when they review permit applications, and there are public education efforts. They are enhancing public and privately-owned habitat by building water control structures and restoring acid lakes from mine tailings, corporate lands, and farmlands. They have created additional habitat on public lands. Through research they have learned much more about the snake's habits and habitat usage. The team meets twice a year to report accomplishments, and at each meeting in September, the team determines if the agreement is working.

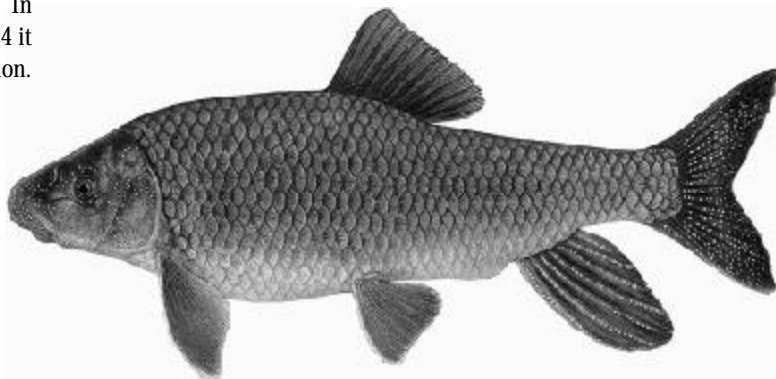
#### VIRGIN SPINEDACE *Lepidomeda mollispinis mollispinis*

This fish is found in Nevada, Arizona, and Utah, all of which have experienced rapid population growth and development in the past two decades. Historically, the virgin spinedace was found in 144 stream miles. This was reduced to 87 stream miles by 1994. Threats to the species come from habitat destruction and modification. In 1992, the USFWS was petitioned to list the species, and in 1994 it proposed to list it as threatened, based on its reduced distribution.

In 1994 the Utah State Legislature approved funding for proactive conservation of sensitive species at the request of Utah Department of Wildlife Resources (UDWR), which also that year formally requested participation from federal, state, and local agencies to develop a conservation agreement. UDWR set up a conservation coordination team. They used the technical expertise of biologists and other agency and university experts, and invited environmental groups and other interested parties into the process. The conservation agreement has been in effect since 1995. Conservation actions included re-establishment of population maintenance water flows, enhancement and maintenance of habitat, control of exotics, maintenance of genetic variation, monitoring, and mitigation.

#### ROBUST REDHORSE *Morostoma robustum*

Historically, this fish ranged from North Carolina to Georgia. A single population was found in 1991 below the Sinclair Dam at a location on the Oconee River in central Georgia. At that time biologists believed it to be the last population and on the verge of extinction. There were a lot of unknowns about the species, and the partners conducted research pertinent to the listing decision. They developed an MOU among federal and state agencies, several power companies, and a conservation NGO, and they set up a conservation committee to review research and provide direction for conservation efforts. There were 45 initial tasks to accomplish; Georgia Power funded much of the research. The committee decided to establish refugial populations to reduce the potential impact of any catastrophic event in the two rivers where the species is found and to undertake studies for reintroduction and/or maintenance of at least six populations that could be self-sustaining.



ROBUST REDHORSE

## Lessons from Case Law Concerning Conservation Agreements

Holly Wheeler (Solicitor's Office, Department of the Interior) reviewed case law pertinent to the development and viability of conservation agreements as they affect listing decisions. Her findings and recommendations are summarized here.

**Courts have supported conservation agreements in general.** Courts have been critical, however, of measures within agreements that have not yet been implemented and of “voluntary” measures.

**Timing is critical.** Last minute agreements have little chance for success because:

- ✿ there may not be sufficient time to allow for public notice and comment,
- ✿ they appear to the courts as last-minute “arrangements” to stave off listing rather than bona fide conservation efforts, and
- ✿ there is no time to get conservation measures underway or to document results.

**Judges want to see measures in place.** They are wary of vague promises for future actions. If there's uncertainty about whether the species is seriously imperiled, under the ESA decisions must err on the side of species, which means listing. Consequently, decisions not to list species that are based on conservation agreements are more likely to be upheld in court if there is a track record of results, such as, land purchased, money set aside for implementation, etc. Actions that are underway have more effect on the courts than an MOU signed by all parties. Show that parties are trying to address all threats in good faith and with the big picture in mind. Agencies and other signatories should keep good documentation of all conservation efforts, including putting species on a state list before the species comes up for federal listing.



REINTRODUCTION AND STOCKING OF APACHE TROUT IN ARIZONA

COURTESY OF GEORGE ANDREJKO, ARIZONA GAME & FISH DEPARTMENT



CONDUCTING SURVEYS OF NATIVE FISH

COURTESY OF GEORGE ANDREJKO, ARIZONA GAME & FISH DEPARTMENT

**Evaluate the potential for success.** Is the species so close to the listing threshold that it will be difficult to create a conservation agreement that will render listing unnecessary? Are population numbers too low, or will it be too difficult to meet the standard for not listing?

## Draft Policy for the Evaluation of Conservation Efforts (PECE)

This draft policy is a proposal by USFWS and NMFS to clarify what criteria they will use to determine “whether formalized conservation efforts [such as state-led conservation agreements] contribute to making listing a species as threatened or endangered unnecessary” (*Federal Register* Vol. 65, No. 144, June 13, 2000, p. 37102).

The Services are looking for **certainty** that conservation agreements will be both **implemented** and **effective**.

**In evaluating evidence for certainty of implementation,** the Services will be looking for documentation as to:

- ✿ who will be implementing actions,
- ✿ when actions will be implemented, and
- ✿ that signatories have the authority to implement actions.

**In evaluating evidence that the conservation efforts will be effective,** the Services will look for the following:

- ✿ a completed description of threats to the species,
- ✿ established objectives for addressing threats,
- ✿ established performance measures,
- ✿ compliance and effectiveness monitoring, and
- ✿ incorporation of adaptive management approaches.



# Findings and Outcomes of the National Workshops

*Workshop participants talked about their insights after listening to the presentations about existing policies and case law, case studies, and the proposed PECE policy. Afterwards, they reflected on how to improve conservation efforts.*

## Reflections on experiences to date with proactive conservation efforts

A number of factors contribute to the failure of conservation agreements to conserve species and/or to gain political acceptance as an appropriate conservation strategy. Starting too late, when a species is well into the listing process or has declined to the point where listing is inevitable, has been a primary culprit. Not having all interests at the table or at least in the loop early enough in a process may lead to problems. Inadequate allocation of resources for staffing and funding the development and implementation of an agreement, and lack of clear agreement on purpose and terms of the agreement, and/or unclear signatory accountability and commitment to implementation are other stumbling blocks. Finally, where inappropriate political considerations enter into decisions about listing and conservation, the likelihood of litigation is increased.

Success is much more likely where there is strong leadership, a champion, where each stakeholder has a strong incentive to participate, and voluntary commitments are formalized in an agreement. It also helps if the agreement addresses species that are not already highly controversial, which means starting as soon as a population decline is detected. Conservation agreements enable stakeholders to learn more about the species. Biological data will often need to be collected while the agreements are being developed, and the addition of new information will likely be continuous.

A major barrier to the development of proactive agreements is that state wildlife agencies have had difficulty securing funding allocations for non-game species that are not federally listed. Workshop participants recognized that in order to secure such funding, they would need to develop a conservation tool that is distinct from existing tools, and one that is widely recognized and supported.

## Creating better partnerships across political jurisdictions

Species do not respect political boundaries. Not surprisingly, turf issues have developed since the implementation of the ESA. It is an experience we share with animal species that have their own territorial imperatives. Agency partners must recognize and address these issues.

Resolving turf issues and misunderstandings requires stakeholders to educate each other about their concerns and needs. Arguments over authorities and rights may be solved by recognizing that most people who work for agencies are passionate about species conservation, and want to bring their unique skills and information fully to bear in solving biological, social, and political issues. Understanding what each partner has to offer that is unique, and figuring out how to work together to leverage each other's resources, will go a long way toward creating better partnerships.

At the national workshops, all participants recognized the value of collaboration with other agencies and partners. They saw the potential of incentive-based approaches to rekindle a sense of stewardship in the American public and to help people see species as desirable and needed components of healthy ecological systems. They outlined their specific interests in developing proactive conservation approaches.

### Representatives of state wildlife agencies want:

- ✿ an arena for leadership that is commensurate with their skills, knowledge, and jurisdictional responsibilities;
- ✿ assistance in developing learning tools for potential conservation partners;
- ✿ clearly articulated goals and a clear indication of what would trigger listing;
- ✿ assurances around what would happen if a species were subsequently listed; and
- ✿ recognition of their efforts in listing decisions, and a commitment from the Services to defend the efforts if litigated.

### Representatives of the Services want:

- ✿ assistance in getting non-traditional or oppositional partners to the table;
- ✿ accountability and clear expectations about what will be done for a species, i.e., effective conservation so they don't have to list;
- ✿ openness in sharing information;
- ✿ state legislation for habitat protection; and
- ✿ other agencies to actively engage in stewardship rather than simply avoiding take.

### Federal land-management agency representatives want:

- ✿ additional funds for conservation of species of concern that don't reduce funding for threatened and endangered species;
- ✿ official recognition for SCAs so that SCA actions on non-federal lands can be considered as "givens" in management plans for federal lands;
- ✿ improved habitat adjacent to parks and other federal lands so they are not segregated refuges;
- ✿ clear indication of what would trigger listing and streamlining if species are listed; and
- ✿ management flexibility so they can meet their multiple-use mandates.

## Toward a shared concept of State Conservation Agreements

State and federal agencies began developing proactive conservation agreements during the late 1990s, but as the case studies illustrated, they were varied in their method of development, the leadership, the groups who were involved, and a host of other details. No coordination existed, and they were conceptualized differently. At the first national workshop it became clear that some thought the idea of “state conservation agreements” referred to umbrella agreements that

the Services made with states to develop conservation approaches, and include individual landowners in the state’s agreement. Others thought they were state-initiated conservation agreements designed to prevent decline of a species to the point of needing to be listed. The final task of the national workshops was to outline a single concept of “State Conservation Agreements,” and locate where these agreements would be most usefully applied along the continuum of species status.

### INITIAL OUTLINE FOR THE SCA CONCEPT<sup>1</sup>

**PURPOSE:** enable a partnership approach ☸ focus on pre-candidate species and foster work on ecological communities aimed at long-term survival of species ☸ facilitate cross-jurisdictional agreements ☸ encourage landowner participation and local voluntary efforts ☸ complement and overlap with other conservation efforts

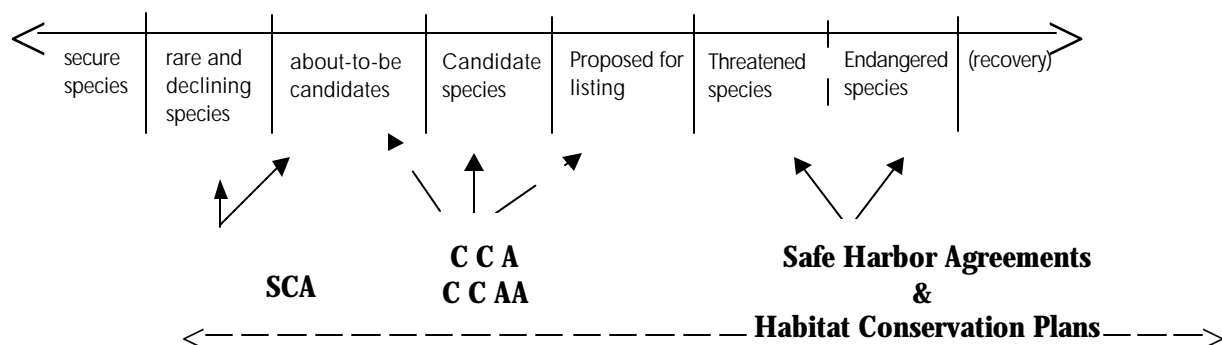
**METHOD:** provide a collaborative forum to reach agreement on science, the conservation goal, the management needed, monitoring and evaluation protocols, and adaptive management strategies ☸ a state will generally take the lead though the effort will be collaborative ☸ partners will focus on actions that are under the partners’ control

**POTENTIAL PARTIES TO THE AGREEMENT:** interested stakeholders, including states, federal agencies, tribes, landowners and their organizations, industry and their organizations, NGOs, academics, and private stakeholders.

**A LISTING OF ITEMS TO BE INCLUDED IN THE WRITTEN AGREEMENT,** including, among other things: the expectations of the partners and implementation agreements, a description of how the public will be involved, the method for resolving conflicts, and a delineation of the end game.

**CLARIFICATION OF HOW THE TOOL AND THE CONSERVATION EFFORTS INTERACT WITH AND RELATE TO THE EXISTING SPECTRUM OF CONSERVATION TOOLS,** as well as what happens if the species declines to a crisis point.

<sup>1</sup> Summarized from the early “Draft SCA Tool”. The full text is provided in the Digest of the National Workshops, available from the author.



“The Wisconsin Sandhill Crane Count is an event that sees 3,000 citizens out before dawn on a Saturday to do the count. It’s not people who you’d expect to see. This is citizen science, and they see themselves making a contribution. The Sandhill Crane is coming back in Wisconsin. It is now a harbinger of spring.”  
--a Chicago participant

## REGIONAL WORKSHOPS: COLLECTING STORIES OF ON-THE-GROUND EXPERIENCES AND APPLYING THE LESSONS FOR PROACTIVE CONSERVATION

*During Spring 2001 regional workshops were held in Las Vegas, Nevada; Portland, Oregon; Chicago, Illinois; Atlanta, Georgia; Frankfort, Kentucky; and Albany, New York. Representatives of a wide variety of stakeholder groups were invited to participate by the regional coordinator of each workshop. The SCA Planning Team charged the workshops with:*

- ✎ reviewing and refining the SCA concept developed at the national workshops, and*
- ✎ suggesting what incentives interest groups would need to encourage their participation in SCAs.*

*Participants in the regional workshops brought extensive experience with conservation. At the beginning of each workshop, facilitators asked them to tell about either their best experience with conservation or their worst, or, to predict the future...what will it be like 20 years from now if nothing changes in our approach to conservation of species?*

*Then, after listening to a case study of an early conservation agreement, participants thought in the abstract about the necessary elements of a proactive approach to conservation. These ideas were collated with the SCA concept drafted at the national workshops, and a free-flowing discussion ensued in which participants commented on and refined the concept.*

*Finally, each workshop took the SCA concept with their refinements added, and worked through how an agreement would be developed around one of three likely conservation targets in their region—two declining species and one ecological community or system. This process helped participants imagine themselves using the SCA tool, as well as further refine its conceptualization by surfacing the opportunities and barriers that potential stakeholders might encounter as they tried to use it.*

*At the end of the workshops, participants provided ideas about incentives and their overall advice about the concept.*

# Stories of conservation experiences

**the good** They told of working on many different species: cougars and black bears, the bald eagle, the red-cockaded woodpecker. The grizzly bear. Salmon in the Pacific Northwest. Timber wolf. Greater prairie chicken. Prairie fringed orchid. Karner blue butterfly. Bats. Sage grouse. Yellowstone cutthroat trout. Swift fox. Condor. Jaguar. Whooping crane. Black-tailed prairie dog. Leopard frog. Sandhill crane. Virgin spinedace. Silverspot butterfly. Yellow rail. Ozark cave fish. Topeka shiner. Freshwater mussels. The reintroduction of elk in Tennessee. Coastal sage scrub. Tall grass prairie. Short grass prairie. Pine barrens, oak savanna. Wetlands. Anadromous fish populations. Peregrine falcon. Colonies of rare plants. Beach-nesting birds.

**"I got married while working on timber wolf conservation."**

**"My best experience? Earth Day in 1977."**

*As wetlands ecologist for a Cooperative Extension, I gave talks about wetlands and why they were important. I also had to talk about regulations--not always what people wanted to hear. But landowners would come up to me after a talk and tell me that they didn't care what they had to do, they valued animals and wanted to protect them."*

They told of developing cross-state agreements; working with 25 ranchers to develop an ecological plan for their properties as a unit; large efforts on behalf of migratory birds and bats; working with legislatures. Getting a grant from a governor's office to work on multi-state agreements. Working on the development of the North American Wetlands Conservation Act and The Nature Conservancy's eco-regional planning effort. Setting up a refuge on an Army base. Working on 28 species at once in an ecological-system approach. Protecting a wildlife corridor traversing four mountains located at the intersection of two states. They cited their enjoyment with working with industry, elderly landowners, farmers and ranchers, legislators, governments.

**"We're not hearing many frogs. We are seeing 25-30 fledging bluebirds a year."**

**"Every year we go down to the lake and see the loons come through. They visit up north. For the last two summers, they didn't nest and produce eggs because of water skiers. I'm worried about over-development and recreational use."**

**the bad** On the downside, they told of program and funding cuts. One person came to a workshop the week after doing a spring survey that found only 100 individuals of an endangered fish species, after having recovered the population to several thousand. Another discovered the Southern Pine Beetle killing the Southern Pine ecological system in Kentucky--habitat for the red-cockaded woodpecker.

*"My worst experience was working with an endangered bat and having a landowner get a stricken look on his face upon learning that it was on his property. There's always a negative response--and you may come back to find the species is gone. People are fearful."*

**"Things don't look so good for wetlands. We did so well for so long! It's being undone--the Wetlands Restoration Program is being cut. I've thought, I hope that people who care will start taking care of things. And then I realized, that's me! So, I've been attending hearings and writing letters to Congress."**

**the ugly** Several told stories of being shunned after delivering talks on endangered species. Or being threatened while working on cougars, wolves, or black bears. Being hanged in effigy at a public meeting, or called a thief and a communist. Or being crucified in the media.

**and the future?** Participants were both optimistic and pessimistic... a Frankfort participant said, "I'm frightened by knowing the ecological scale on which we have to work. Tens of thousands of acres, when most land is privately-owned. It is so daunting. We need money and political support to encourage private landowners, or we will be facing a biologically-depauperated world." But a Portland attendee offered, "In 20 years, if we unleash creativity and give people incentives to participate, then we can be in great shape!"

*"I'm cautiously optimistic, because of the kids coming up now. Look at some of the MA or PhD presentations--divine!"*

“You gain a perspective from being on one piece of ground for a long time. I’m an operations forester. I grow and cut trees. I am passionate about the working forest. Most everything can be accommodated in a working forest. I’m enthused about looking for other ways besides a regulatory approach. Regulation does not make things work well. Talking together helps. A key thing: focus on little animals.”  
-an Albany participant

## The necessary elements of a proactive approach to conservation

*Facilitators collected ideas from each workshop participant. The ideas are categorized and accompanied by summary process recommendations below. A sampling of individual comments quoted from across the workshop has also been included.*

### A problem suitable for a proactive approach

#### First, identify the problem

Is there one? What is it? Can we do something about it proactively? Identify existing programs, regulations, agreements that can be tweaked instead of reinventing the wheel. Don’t skip over the obvious: soil and water conservation districts are already in place.

#### Assess political viability and feasibility

It must be important enough to spend political capital and take risks. Identify external factors that will affect success. Political, legislative structures pose opportunities and barriers. What are these? Recognize the true, long-term feasibility of your project.

### Available and credible leadership that is committed to success

#### Provide leadership

Leadership must be sustained, committed, and non-threatening. Have equality among all parties. Everyone plays “democracy.” Don’t use a blue-ribbon panel with an agenda that cuts stakeholders out. You need private-sector champions.

#### Commit that this will happen

What motivates people to take action? Fear, social duty, economic incentive, a strong leader. You need a funded and staffed organization to support the process.

#### Identify stakeholders

All of them, spanning appropriate amounts of landscape. Engage them early. Ask them personally to be involved in the process. The critical players. Enlightened stakeholders. Opposers. Strong advocates who are skilled negotiators. Include landowners, agencies, species specialists—even if you are taking a watershed or eco-system approach. Include the variety of resource disciplines. Recreation interests. Tap non-landowning people who have a lot to offer but don’t know how to participate.

#### Invite stakeholder involvement

Despite the logic and beauty of the theory that proactive is better, it’s harder to get people to be proactive. You need to give stakeholders strong reasons why a species needs to be conserved. You also need to show the benefits and costs of being involved and of *not* being involved. Show interest in people by doing fieldwork. Devote the time and skills to walk people’s land with them.

#### Understand their incentives and risks

Understand each partner’s motivation. Fear of punishment? Reward—intrinsic? Financial? Is there a clear business driver? What are the incentives and obstacles for local governments to participate? Local governments want to broaden the tax base through development. Think about the inherent risk of players—assess vulnerability and exposure. Partners must be willing to take informed risks in order to make progress. Be aware that you can be ambushed. Find strong motivations for entering the process outside of regulatory ones—an abiding awareness that there are human benefits to conserving species and landscapes.

### Partners

## Science and information

### Gather good information to base decisions on sound science

Identify and assemble all pertinent data. Assess the current state of knowledge and determine what else you need to know. You need information on species requirements, status, distribution, and their basic biology. How do they play into the ecological system they inhabit? What are the processes of that system? Do a habitat assessment—how much is left, the size of plots, their connectedness, the problems on the horizon involving habitat. Understand the geographic scale at which you need to work to get a functional population response. Get good land cover analysis and GIS data. Realize that this is an iterative process.

### Involve all participants in the science development process

Make sure that everyone is working from the same data. You need the best available science and agreement about what the science is telling you. And adequate protocols for sharing information that respect cultural and legal rights, especially when working with tribes.

### Have a well-run process

Establish ground rules up front. You'll need a strong facilitator, especially in a controversial environment. Without both of these, people fight over science, money, and who is included. Be open to the uniqueness of each process development—realize that there is no correct way to do it to begin with. Search for the right thing to do. Identify measures of success for the process itself. Agree on a documentation methodology at the outset. You need a strong bureaucratic structure so that the process is relatively easy, but it shouldn't control the process so much that it limits the ability of others' passions and interests to take it to other places. Communities will want to get on board and then run with it.

### Make it easy and user friendly

Landowners won't jump through too many hoops. Aim for a simple document that the lay public can understand. No acronyms!

### Establish credibility and trust

You can catch more flies with honey. Recognize the need for confidentiality in business and agricultural operations, tribal business, etc. This is not about compromise--that changes the dynamics. Instead be flexible, creative, and allow a changing internal culture.

## Good process

### Enable effective stakeholder participation

Recognize that different partners have different strengths, and identify who does what. Understand jurisdictional boundaries and the responsibilities of those parties. Have respect for all parties. Realize that not everyone is doing this for the same reason you are. Some stakeholders carry more personal and financial risk...if your ox is getting gored, it's not the same as having a "feeling." Share pain and gain. Talk to each other like people, and aim for win-win, rather than "lose less." Give acknowledgment and credit. Very important! Have clear expectations and roles for participants. You need regular participation and stable commitments. Use the same team members over time. Stamina is needed. But have a clear way for stakeholders to get out. An "escape hatch."

### "Beer, barbeque, and bumper cars"

Have fun. Bring donuts.

### Establish a time frame

Decide on a time frame for arriving at agreements. You will need enough time to plan and bring all partners together. Conversely, too much time is the death knell for an agreement because as staff change and people retire, the relationships that are the foundation of an agreement can be lost.



## **Goals and management actions**

### **Develop a common vision and values**



The group must accept the problem and move on to the solution.

### **Identify the threats**



Get a good definition of what the “fix” is. Strategies should discuss desired conditions, rather than constraints. Treat causes rather than symptoms. Look at the possible negative effects to other species.

### **Set target goals and outcomes**



Identify objectives. Where are you going? Make a specific list of recovery actions and prioritize. Endpoints need to be defined on a biological basis or target: you make a conservation effort because you want a population response. Manage for suites of species and habitats rather than single species. There have to be measurable criteria for success, for example, X acres of early successional forest, a habitat status, a distribution/configuration of species, the number of individuals, etc.

## **Outreach**

### **Develop a multi-level outreach campaign**



A few years ago, people killed bats in their houses. Now, they ask for bat boxes. Educational programs have changed attitudes. Use the media. Engage people on their turf. Start on this early, during development of an agreement, not at the signing. Tell about the effort and why it is needed. Use simple visual symbolism to help people understand. Convey the history of conservation, and show people where their place is in the bigger puzzle. Educate politicians and your grassroots network so that they convey information accurately. Continually repeat the message. Emphasize collateral benefits. Educate small landowners. Partner with schools and educators to do hands-on activities with children.

### **Use a phased approach**



In the first phase, educate on the urgency of the problem. In the second phase, celebrate success, because fear attenuates and interest wanes.

## **An agreement that can be implemented successfully**

### **Provide flexibility**



Allow landowners to manage their problems. Anticipate changing circumstances . . . today's stakeholders might not be tomorrow's. Have contingency plans for the future. Motivations change 15-20 years down the road. Every so often, assess whether you need to change goals. Know and establish when to re-visit issues. Practice adaptive management. Allow creativity.

### **Be fair**



What are the respective fair shares of conservation responsibility among stakeholders, including agencies? Recognize past conservation efforts. If you have been doing a good job of management for a long time and have a high percentage of the species population on your property, you shouldn't be penalized. The cost of conservation needs to be spread beyond the landowners who are providing the habitat.

### **Define success and create accountability**



Set evaluation criteria, and then let managers figure out how to produce outcomes. Have expectations that are committed to. Assurances have to start with states and participants; you need a means to guarantee the quality of a local group's work. Contractual obligations? Performance bonding? Parties also need certainty about future land management decisions.



**Dedicate funding for implementation**



The funding should have a practical, beneficial effect for species, with staff dedicated to fieldwork and money for monitoring. The cost of managing a program is higher as it grows, so empower landowners to do the work instead of creating big government programs.

**Do adaptive management with monitoring**



Two tiers of monitoring are necessary: state-level oversight and local programs for individuals and groups. Develop a landowner-monitoring program, individualized to their property. The monitoring should not take too much time—something that they can wander out and check after supper. Take a photo once a year. Monitor a selection of sites. Develop an “adopt-a-glade monitor program.” Give people a place for reporting, like a Web site. You know you are successful when people ARE reporting in. Recognize monitors for their contributions.

**Develop a consistent monitoring program for species or suites of species**



Ongoing surveillance will help you to know when something is wrong before a population crashes. Monitor even common species.

**Change ways of doing business**



It can't be command and control. People's comments must be worth something and included. Learn cooperation. People are growing in their ability to work together and to see spheres of actions they can take individually to help the cooperative effort. Use incentives: a carrot rather than a stick. Rely as much as possible on free-market solutions with profit-based incentives. Unify planning processes; codify them around biodiversity requirements.

**Incorporate into political structures**



Proactive conservation needs to be compatible with and complementary to the ESA as it exists right now. It must comply with NEPA and other environmental laws, while protecting prior existing rights of state and local governments, tribes, and landowners. It should have some basis in law.

**Document results**



... so you can see why some agreements work and some don't, and what behaviors contribute to success.



FLATWOODS SALAMANDER

COURTESY OF JOHN JENSEN

# Summary of discussions about the draft SCA tool

At each regional workshop, participants reviewed the draft SCA concept outlined by the national workshop participants, to which had been added the ideas from their workshop about the needed elements of a proactive approach. Below, comments have been summarized and arranged thematically.

## State leadership

In every workshop, participants asked, “Is putting the state in the lead the best approach for proactive conservation?” People questioned the capacity of states to assume leadership. They thought some states would need to get statutory authority even to participate in SCAs. Some thought that if a species or ecological-community target is more local, the leadership should not be at the state level. A “friends” group, an NGO, or a local government could initiate and lead. Participants also wondered which state would lead cross-state agreements. In general, the workshop participants talked about desired qualities of leadership, such as “leading from the rear,” using a non-controlling approach, and having the ability to get parties to the table and marshal the capacity and commitment to accomplish what is needed.

As the discussion progressed, many realized that state agencies do have responsibility for the “watch.” They are responsible for detecting species decline and initiating conservation efforts. They also have the stature, legitimacy, and credibility needed by the public. Many concluded that a state leadership role is likely, important, and probably necessary, but they hoped that the final tool proposal would allow some flexibility, and that the partnership approach would be fully realized in the exercise of leadership.

## Science and use of experts

“Agreeing on the science” raised questions for participants. Why does science have to be agreed to? Isn’t there just one scientific fact? Many participants had experienced dueling experts each citing studies in support of their contrasting views. On the other hand, agreement on science by non-expert stakeholders raised questions of non-biological interests entering into decisions about science. Participants thought using species and system specialists as experts in SCA processes would be necessary, but, “do it in front of everyone, like full disclosure.”

## Endpoints

One person said, “There needs to be a realization that all of these things have to be long-term and maybe perpetual. If we return to the same practices as before the agreement, we’ve just solved the problem for five years.” Another noted, “Business and the private sector need fixed agreements and goals. They need to be done at some point.” There is a tension between the ongoing need for good management practices and stakeholders’ need for an endpoint and certainty. People tire of an effort. We are goal-oriented. Workshop discussions did not resolve the tension, though participants suggested that at a minimum, groups could agree on realistic, achievable, and measurable goals which could be revised as the process unfolds. Stepped agreements with exit points for stakeholders might also help.

## The question of assurances

Stakeholders with economic interests need predictability regarding future management and regulatory actions. Agencies and courts want to be certain that proper management actions will be taken to protect species. And the public wants to know that species will be protected as required by law.

Although valuable discussion occurred, national workshop participants had not come to any consensus over the issue of assurances. What happens if a species that is the subject of an SCA is subsequently listed due to either the failure of the conservation effort or unexpected developments? Should SCAs include assurances from the USFWS and NMFS about future management requirements in the event of listing?

At every workshop, participants had questions about certainty:

- ❖ How can we know that if we do something good for species, we won’t be asked to do more and more later?
- ❖ What assurances can be provided that if we do proactive conservation, the species will not be listed anyway?
- ❖ What guarantees do we have that promised conservation actions will occur?
- ❖ How can we be certain that conservation actions will actually stabilize the species and allow the population to recover to a level that will assure its persistence in the future?

In thinking through the issue of what assurances would be needed for SCAs to be viable as a conservation tool, workshop participants had several realizations. First, many landowners and other stakeholders do not want assurances. Some just want to do good things for species. Some do not want to be involved with federal regulatory agencies, period. Some have little risk if an SCA fails to conserve the species. If there is no risk associated with failure of the agreement, there is no need for assurances. By the end of each workshop, participants had not reached consensus about whether to pursue the development of specific assurances to accompany SCAs. It became clear that the SCA would need to accommodate a diversity of needs for assurances.

Frankfort workshop participants thought explicitly about why an agreement might fail. They thought a habitat strategy could fail because there is not enough regulation or a lack of understanding of the biology. Or, a critical partner was not involved in the agreement. In any case, the Services would have to pursue listing, but the learning that occurred during development and implementation of the SCA would still be useful. And more importantly, the partners in the agreement *would likely be already substantially engaged in doing what is needed for recovery of the species.*

# What should be the focus of SCAs—species or ecological systems?

“We focus on species because people can grasp it. When you start advancing to ecological processes with a million aspects, it’s too complex. We’ve made some positive steps in conserving species. Now, there’s a more ecological focus. We don’t know too much at the landscape scale. It’s mushy. There’s no certainty. It’s defined by the players rather than science.”

—a Portland participant

“It’s easy to gather support for charismatic species. But lower levels are often key.”

—an Albany participant

“Our best hope lies in systems.”

—a Chicago participant

Our nearly 30 years of experience operating under the ESA has reinforced a propensity to focus on species (in the psychology of perception—the figure, rather than the ground). As a culture, we are beginning to develop language specific to management of ecological communities and systems. We have much less experience with managing for systemic outcomes. We don’t understand systems very well. Many states have no habitat protection laws, so they must focus on species.

But one participant worked the numbers. “Lots of species have been impacted in Tennessee. Twelve to 15 years ago, we started funding research on mussels and fish. It is starting to pay off. But we’ve worked 15 years on 15 species. If we don’t get more funding, we won’t have much to work on.” Across workshops the message was clear: we need to move toward working at the system level, but we still need some consideration for species so they don’t fall through the cracks.

The choice of scenarios tested in the regional workshops provided some testing of this conversation.



EARL HORN

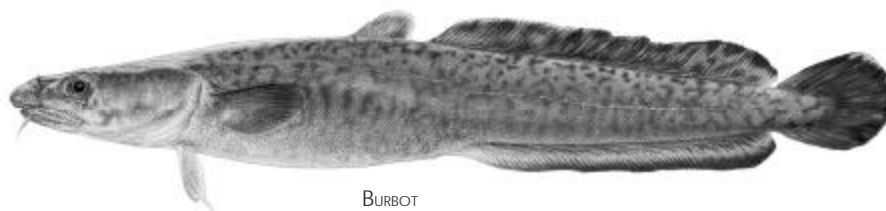


USDA FOREST SERVICE



COURTESY OF: COREL CORPORATION

FROM TOP TO BOTTOM:  
SWALLOW-TAILED KITE, FISHER, AMERICAN WOODCOCK



BURBOT

COURTESY OF  
JOE TOWELLER

# Testing the SCA Concept on Species and Systems

At each regional workshop, the SCA concept was tested on three “cases” of regional interest: an ecological system and two declining species, each of which might be likely initial targets for proactive efforts within the region. Participants divided into three groups and thought through the process of developing an SCA among stakeholders. The following cases were tested:

<b>LAS VEGAS:</b>	tall grass prairie Gunnison prairie dog leopard frog
<b>PORTLAND:</b>	fisher burbot sage-steppe ecological system
<b>CHICAGO:</b>	tall grass prairie system timber rattlesnake slender madtom
<b>ATLANTA:</b>	Southeastern flatwoods amphibians Etowah River system swallow-tailed kite
<b>FRANKFORT:</b>	glades American woodcock Allegheny woodrat
<b>ALBANY:</b>	pitch pine/scrub oak barrens New England cottontail Blanding’s and spotted turtles

The sessions were minimally facilitated; instead, the workshop facilitators spent most of their time observing and taking notes on how groups tackled the task. Their observations are briefly summarized here.

**ISSUES OF SCOPE:** One of the first issues each group tackled was the scale at which they would work. Their decisions depended on the biology and range of the SCA target and the political impetus for the agreement. A migratory species like the swallow-tailed kite, which flies between North and South America, presents very different problems from a species that inhabits vernal pools. Ecological systems that have been reduced from millions of acres to small remnants require very different strategies than glades or watersheds. Both biological and social factors set parameters for scope. At what scale do you need to work to produce a functional response? What resources are available to accomplish work? Even within these parameters, strategies can vary considerably.

For example, two workshops dealt with tall grass prairie. Each envisioned a stepped approach. One test group imagined a “Friends of Tall Grass Prairie” group as the catalyst for developing an SCA in a pilot program that could then spread to other areas, using a time-stepped approach. The other test group envisioned a stepped *structure*—a first tier where representatives from all the states with tall grass prairie would convene and outline the main points for an overall framework, develop an organizing vision, set priorities, and assess the resource. Additional

tiers would engage local areas, states, and/or regions in addressing the main issues while working within political boundaries and using implementation strategies suited to the locale.

The conclusion for proactive work? Think and act locally, and connect regionally. Or vice versa. Experience with actual SCA development will eventually reveal whether the order actually matters.

**STAGES TO THE SCA DEVELOPMENT AND IMPLEMENTATION PROCESS:** Three general stages emerged across groups. (1) A pre-planning phase begins preliminary discussions on scope and political feasibility, while gathering biological and social information and deciding who can convene the process. (2) The agreement-development phase is where stakeholders convene and settle on scope, process, and problem definition, and then conduct triage on focus and details. One group noted that here is where “you put your finger in the dike [to reduce the rapidity of species decline] and then do iterative actions.” Writing and signing the agreement concludes this phase. (3) Implementation and adaptive management constitute the final phase.

**PARTICIPATION AND LEADERSHIP:** The test groups recognized that different partners would be doing different things during the process, and they might need a palette of options for individuals interested in contributing to conservation. Some stakeholders may participate as conveners, some as implementers, some working to develop the agreement. Some might participate as part of an extended review forum. Those doing local implementation and management may or may not be signatories to the overall SCA, who likely are large interests. Outreach is a key part of the SCA process to involve others beyond the signatories. A challenge is how to deal with the huge numbers of stakeholders when the species migrates over thousands of miles. Leaders and champions for the process need to have credibility with private landowners who are important for the success of proactive efforts.

**MANAGEMENT ACTIONS, SPECIES VS. ECOLOGICAL SYSTEMS AS TARGETS, AND INTEGRATING BIOLOGICAL AND SOCIAL CONCERNS:** As groups discussed management actions, many tacked back and forth between biological and social domains, using one arena to answer questions within the other. For example, developing management actions for an ecological system requires the public to “get their arms around the system.” Many thought that even if the SCA is targeting a system, the public can only relate to a species and you’d need to develop management actions around a focal species that could serve as the proverbial canary in the mine. However, one participant had designed a visual representation of trophic levels within a tall grass prairie system, figuring that the public could grasp the process of who eats who or what, and understand that the reduction of trophic levels from 10 to three might be a rather significant indicator of system health. Another group tackled the issue by asking, “What are the levers for the system [meaning, what kind of actions generate systemic improvement, such as road reductions or reduction of

siltation], and what constituencies do these pull?”

Those who started with species targets found themselves quickly drawn up into systems, either because they needed to address habitat issues or because the species isn't appealing to the public—like a snake. Habitat requirements of the SCA target species may conflict with a listed species, in which case managers need to look at a wider system and develop an understanding of where and how to accommodate both.

The choice of one target—a species or an ecological system—did not really preclude the need to address the other. This finding may be inherent to taking a proactive approach, or it may be that systemic thinking is an idea whose time has come because of the experience accumulated using single-species approaches.

In any case, the test groups discovered themselves creating space for human diversity. People have different talents and interests: some enjoy broad systemic thinking and others are fascinated by a square inch of dirt. Landowners gain intimate knowledge of their land; biologists specialize in a single species. Taking advantage of who is available and interested in doing what will be key in developing SCAs.

**USE OF EXPERTS:** Groups designed a variety of approaches for engaging experts in understanding the science. Experts can assist stakeholders to develop a common vision by helping them build a common base of information from which to work. This insight argues against the idea of using experts to develop the science in isolation from stakeholders.

**CONCLUSIONS REPORTED BY THE TEST GROUPS:** SCA initiators may want to start small in order to show some immediate

successes using a scale where the SCA concept would easily work. States need to prioritize SCA targets strategically to get the biggest bang for the buck. Don't initiate an SCA process unless institutional commitment is there. Setting milestones helps stakeholders understand and celebrate their progress in dealing with a long-term and complex issue. Many saw no real exit strategy or endpoint, despite the desire to be “done” at some point. Finally, who is accountable if something doesn't get done? Accountability issues need to be considered carefully prior to signing an agreement.

#### **REGIONAL DIFFERENCES AND THEIR IMPLICATIONS:**

The workshop facilitators watched the test groups handle regional differences in land use and ownership patterns. For example, Western states encompass significant amounts of public land, while in other states land is overwhelmingly owned privately. The level of contention over species conservation differs accordingly. Some states are much more urbanized than others and/or have fewer intact natural systems because they've been urbanized for much longer. Some states have primarily industrial and service economies, and others are more agricultural. The funding and staffing of state wildlife departments varies considerably. Some states and regions may favor development of an SCA agreement that encompasses a variety of other conservation tools in a comprehensive approach; others may favor working more locally. The political climate will influence these choices.

This variability argues for flexibility in an SCA tool in order to accommodate differences—in conflict levels, land ownership patterns, species and ecological-system concentration, migratory-species patterns, and agency capacity. The differences resist a “cookbook approach” to developing these kinds of agreements.

## **Incentives to Engage Stakeholders**

*Representative ideas from across the workshops are collated and categorized below.*

Incentives vary among stakeholders. When developing agreements, it might be useful to think through and list incentives from every perspective. Different levels of incentives might be necessary, including incentives that get people to the table initially, those that get them to sign agreements, and those that get people to participate in implementation. Examples of incentives include:

- ✳ *Getting tangible benefits*, such as technical assistance, services, or priority points in applications for farm bill or PDR programs
- ✳ *Getting financial benefits*, such as compensation, access to federal funding, entrepreneurial opportunities, or efficient leveraging of resources
- ✳ *Getting recognition and social benefits*, such as stewardship certification, receiving credit and increased credibility, and/or opportunities for building of relationships
- ✳ *Getting political benefits*, such as an ability to influence the decisions, meeting legal requirements, local control, or an effective planning tool

- ✳ *Getting ecological benefits*, such as information sharing, achieving a better understanding and agreement on the biology of species and systems, the flexibility to manage, maintenance of open space, and limiting sprawl
- ✳ *Making life easier and more rewarding*, with certainty, simplification of participation requirements, one-stop-shopping and streamlining, less regulation, opportunities to have fun, reduced risk, recreation
- ✳ *Having regulatory hammers in place*, like the threat of listing or other increased regulation

*“Why should a state agency be motivated to do proactive conservation? In our state, we've got 170 listed species, 22 candidates, and 800 sensitive species. We're gonna work on those where we can prevent the need to list...it's the only answer. Stay the course. Work on this. Very simple.”*

“For a lot of states, this is not a new tool. A great example is the Louisiana Black Bear. I hope that the outcome of the workshops is a synthesis of everything that is already underway but called something else.”  
--an Atlanta participant.

## ARRIVING AT A FINAL DRAFT OF THE SCA CONCEPT

*The SCA Planning Team met in July 2001 to review the results of the regional workshops and complete a final draft of the State Conservation Agreement concept to be recommended at the annual meeting of the IAFWA in September 2001. Based on what they heard at the regional workshops, they made a number of changes to the concept drafted at the national meetings, including the incorporation of some additional categories. They worked through sometimes-opposing opinions about a variety of issues to reach a consensus about how to conceptualize the tool so that it could best accommodate the diversity of opinions and needs. The final draft concept for the SCA reflects the consensus reached by the planning team, taking into account the range of input received from all the SCA workshops.*

*Recurring themes from the regional workshops provided the following charge to the SCA planning team:*

- ✿ *We’d like to have clarity about how SCAs are distinct from other tools.*
- ✿ *We can’t do SCAs without funding and staffing—please address capacity issues.*
- ✿ *Be aware of the need to specify the assurances that can be attached to these agreements.*

*And some remaining worries...*

“Will states be able to address the urban expansion that reduces habitat? Will SCAs and other similar arrangements preclude needed listing in a local political context? Will efforts become diluted and fractionalized with the proliferation of agreements? Will a balance between interests be achieved and money made, yet no species saved?”

—a Las Vegas participant



# How Remaining Questions from the Regional Workshops were Resolved

*Below, the questions and opinions from the regional workshops are listed first, followed by the planning team's consensus about its recommendations.*

## PURPOSE OF THE TOOL

Should the focus of SCAs be expanded to include species classified as candidate and/or proposed?

- ✿ The planning team recognized that when state wildlife agencies have data showing species in decline, they need a means to bring people to the table. They thought that the real distinction between an SCA and other tools is its voluntary, incentive-based approach. With candidate or proposed species, federal law dictates a plan of action. The planning team decided to keep a focus on pre-candidate species but emphasize that the tool is flexible and can be used, where appropriate, to work on ecological systems and suites of species that may include species at different points on the continuum.

## LEADERSHIP

Should the SCA concept designate who should take the leadership role, and should states be the designee?

- ✿ The planning team again wanted to leave the door open for flexibility, but also wanted to recognize the statutory role of state wildlife agencies and give them the responsibility to recognize a need and act as the catalyst for a credible effort. The existence of the SCA tool does not preclude a watershed group or local “friends” group from “just doing it.” They decided to recommend a discrete tool that recognizes the role of the states and makes it easier for them to step up to the plate by including language in the draft concept about the states’ leadership role.

## SCIENCE AND THE USE OF EXPERTS

What is good science and who gets to say what is good science?

- ✿ The team underscored the principle that agreements need to be based on good science and the best available information. In developing agreement about the problem and the potential solutions, groups need to recognize at the outset that competing interests may disagree with respect to what constitutes good science. Parties need to set the rules of engagement on how they will reconcile differences of opinion on science before the scientists ever walk through the door.

## ENDPOINTS

Workshop participants expressed a desire for endings to the agreements, but as they worked through the example scenarios, many concluded that they could see no exit strategy.

- ✿ The planning team discussed how to accommodate the reality that interest lags and private stakeholders need to see a goal achieved. They realized that the question deals with the institutionalization of the agreement in ongoing management plans and that agencies would have continuing responsibilities beyond the conclusion of agreements. In addition, the implementation of agreements would likely include some permanent changes to the way business is done and land is used. Conservation easements in perpetuity may be part of SCA implementation, for example. The team thought that signatories would need to agree on what will constitute success, including thresholds based on biological targets and decision points within the adaptive management plan. At the same time, stakeholders need to recognize that ecological systems and species need ongoing, evolving, adaptive stewardship. Reaching success targets may result in a transition to a maintenance plan.

## ASSURANCES

Agencies and stakeholders want a conservation tool that does not have the regulatory and political baggage associated with the ESA. Legal assurances raise the spectre of regulation and ESA politics. Yet some stakeholders will need and want assurances. How, then, should this diversity of needs be accommodated?

- ✿ The planning team noted that stakeholders have the option of seeking assurances from the Services using CCAAs, SHAs, and HCPs. There may be opportunities for the states to think through this question at the state level and provide assurances using their statutory authorities. The team suggested that groups developing an SCA should review the assurances question with stakeholders. The final agreement should describe both the assurances—if any—desired by signatories, and the degree to which those assurances can be provided.



### CAPACITY ISSUES WITHIN STATE AND FEDERAL AGENCIES

Regional workshop participants—both state agency and private interests—expressed concern about the capacity of the states to implement SCAs. Some states have caps on the staffing “lines” allocated to agencies, which means that any new program would take staff away from an existing program. Both state and federal agencies will need additional staff to implement SCAs, or some other means to handle the additional workload. Finally, they expressed concern about the capacity of states to work collaboratively with private landowners, including a sharing of decision space.

- ❖ The planning team recognized that additional money available for SCAs and a desire for a proactive approach are not enough; the workforce issue must be addressed. This concern would be key for the outreach strategy in gaining political endorsement for SCAs. They thought that SCAs would provide a template and mandate for states to engage in proactive conservation efforts, gain experience with leading and supporting them, and develop effective partnerships with other interests.

### THE DIFFERENCE BETWEEN SCAS AND OTHER TOOLS

Regional workshop participants explored how SCAs are different from other conservation tools currently available through USFWS and NMFS, and wanted the planning team to make difference explicit.

- ❖ The planning team thought that the advantage to doing an SCA would be understood situationally. But briefly, very large processes are associated with the development of an HCP while the SCA concept offers an opportunity to focus on simpler, proactive, voluntary efforts. The SCA may also enable more local control than either a CCA or a CCAA, and could provide states with a means to get funding for nongame species.

### STATE UMBRELLA AGREEMENTS

The national workshops began with confusion over what was meant by state-led conservation agreements because in addition to proactive efforts, states may hold umbrella agreements for SHAs, CCAAs, HCP and CCAs in which individual landowners can participate through certificates of inclusion. The national workshops decided to conceptualize SCAs as a proactive tool as opposed to the umbrella approach. This leaves the question, though, of how SCAs operate when endangered species are present in an area being addressed by the SCA.

- ❖ The planning team noted that where circumstances exist that both an SCA and a CCAA or SHA are needed, the group would need to make whatever link was necessary. In general, as the SCA is being developed, the group will need to make sure that its planning process identifies all existing circumstances that could impact their work and account for them in the agreement.



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## Where We are Going from Here

The SCA concept will be proposed at the September 2001 meeting of the IAFWA. If the Association supports the concept, the SCA planning team will initiate a new phase to the project, in which methods will be identified for prioritizing species and systems that should be the initial targets for development of SCAs.

## **A Model for Proactive Conservation: State Conservation Agreements September 17, 2001**

*Note: This suggested approach to developing State Conservation Agreements(SCAs) is the final draft of an outline that was developed in two national SCA workshops and refined through each of six regional SCA workshops. The SCA Planning Team will further refine it through discussion with members of the International Association of Fish and Wildlife Agencies, which initiated and leads the SCA effort. The intent is to secure approval from the appropriate committees and agency directors of IAFWA, before advocating its use and further refinement.*

### **Definition**

A State Conservation Agreement (SCA) is a tool designed to proactively conserve species, through partnerships of stakeholders. It focuses primarily on addressing the habitat and other needs of species that are of conservation concern, but which are not listed, proposed, or candidates for federal listing under the Endangered Species Act (ESA). An SCA is flexible, however, and can be applied at different levels, ranging from individual species to suites or groups of species and their habitats, or to an entire ecological system or ecological community. It uses an inclusive process to seek conservation solutions that are mutually beneficial to stakeholders, to the greatest extent possible. For purposes of an SCA, "stakeholder" means any individual or organization with a vested or other interest in the issue at hand.

### **Purpose – Why do an SCA?**

- To foster proactive, voluntary stewardship of species and ecological systems based on the best available knowledge and science.
- To enable conservation of ecological communities that ensures the long-term survival of species and larger systems.
- To create the cross-jurisdictional mechanisms necessary to enable regional management of wide-ranging or migratory species, habitats, and ecological communities.
- To provide opportunities for all stakeholders to engage in collaborative, constructive dialogue.
- To encourage incentive-based landowner participation and local conservation efforts.
- To use management resources when and where they can be most efficient and effective, and early enough to prevent the need for more intensive protection through federal listing under the ESA.
- To complement other conservation efforts, including those focused on federally-listed species.

### **Guiding Principles – Some keys to success**

Successful development of an SCA depends on many things, including:

- Effective leadership. State wildlife and fisheries departments are responsible for recognizing the need for management intervention for species under their jurisdiction. Thus, a state agency will generally be the convening and coordinating entity for an SCA, although others may assume or assist with this role where appropriate for them to do so.

Leadership in developing and implementing various aspects of an SCA may be flexible. However, regardless of who provides it, the leadership must be committed and sustained. Development of the SCA is understood to be a shared effort among states, federal agencies, and private stakeholders, enabling leveraging of resources and information.

Leadership must be committed to convening and sustaining the participation of appropriate stakeholders, and willing to share with them responsibility for developing and implement an SCA.

- Engagement of partners. Typically, many government agencies, tribes, and private parties will have an interest in the issue at hand. An effective process for convening potential partners is the first step in developing trust among, and securing participation by, stakeholders and other interested parties. Key aspects of a decision to convene parties to develop an SCA include the following:
  - A listing of compelling reasons why the species or ecological system needs to be conserved, including a thorough assessment of time, cost, and value of developing an SCA.
  - A definition of the minimal data needed to convene the process.
  - An initial "best guess" about the geographic scale on which parties need to work in order to achieve a functional population or system response.
  - A review of existing programs that could be modified to address the issue, instead of developing an SCA.
  - Access to the resources necessary to develop the SCA successfully.

- A commitment to allocating the necessary resources for implementation, including funding and staff time.
  - An ability to provide the process management necessary for success in developing and implementing the SCA.
  - Identification of all stakeholders and interested parties, and a willingness to invite them to participate, and a commitment to finding ways to engage them productively in all aspects of developing and implementing the SCA.
  - Skilled negotiators as participants; use of a neutral facilitator is advisable.
  - All parties critical to success of the SCA need to be committed to the process and to making it work; that is, “buy-in” must be secured from the highest leadership of the participating agencies and organizations.
  - An estimated timeframe for developing the SCA that is acceptable to the convener and to the potential partners.
- Agreement on process and structure. The SCA process should provide a collaborative forum in which the partners agree on the:
    - Problem to be addressed.
    - Conservation goal(s) and objective(s).
    - Science to be used in refining and addressing the problem and achieving the goal(s) and objective(s), including how participants will resolve disagreements and uncertainties over science.
    - Legal requirements and procedures that will be followed by participating federal agencies, such as whether development or adoption of their contribution to an SCA will entail the use of National Environmental Policy Act (NEPA) process and/or other requirements specific to the individual agency or agencies.
    - Leadership and management needed for success.
    - Desired adaptive management strategy, with protocols for managing process and progress when implementing the SCA.
  - A solid foundation of information and funding. The partners must strive to:
    - Identify and assemble all pertinent biological and social data, including existing agreements, the regulatory structure and climate, relevant programs and plans, jurisdictional boundaries, habitat assessments, biological cycles, population levels and distribution, and historical data.
    - Review funding sources early and proactively, and develop a funding strategy.
  - Productive engagement. The partners must engage productively in collaborative ways that:
    - Focus on actions that are under the partners’ control.
    - Strive for a “win-win,” not a “lose-less,” approach to developing and implementing the SCA, with effective conservation as the goal.
    - Develop an effective media and outreach strategy from the beginning of the process, for political officials, the potentially-impacted parties, and the public, so that everyone is both provided and providing accurate information. In the beginning, outreach focuses on urgency and potential. Later, it focuses on accomplishments.
    - Establish regular participation and a well-run, efficient process.
    - Identify tangible products to be worked on during development of the SCA, as well as after signing.
    - Assess the potential to integrate the SCA effort with other efforts.
    - Celebrate the successes achieved along the way toward accomplishing the goal(s) and objective(s).
  - Effective linkages to other conservation efforts. Patterns of ecological risk for species can be plotted on a continuum from abundant to endangered. Conservation tools have been developed and targeted on species falling at different points on this continuum, but generally on the more imperiled species. SCAs will generally focus on (a) species that are not yet declining, (b) species that are at the earliest stages of decline but which are not yet in the federal listing process, and/or (c) conservation of ecological systems (i.e. landscape-level conservation).

The SCA tool is intended to be flexible, and can link to or incorporate, other conservation efforts. This could include identification of other conservation tools that could be used by the stakeholder to address his or her individual circumstances. Such tools include ESA-based approaches that have already been developed for more highly imperiled species (i.e. “at risk” species), including Candidate Conservation Agreements, Habitat Conservation Plans, and Safe Harbor Agreements. For example, if an SCA stakeholder owns habitat occupied by a listed species within the geographic area covered by the SCA, the applicable ESA-based management considerations for that species could be integrated into the SCA.

SCAs cannot abrogate or violate requirements established in law, rules, policy, etc. For example, Federal agencies involved in an SCA might need to develop and adopt their contribution through procedures set forth under NEPA, ESA (e.g. Section 7 consultation process), the National Forest Management Act, or various formal federal laws or planning processes.

- Contingency planning. When developing an SCA, signatories should address management issues such as:
  - New information.
  - Unpredictable fluctuations, such as disease or drought.
  - Movement of a federally-listed species onto a property that is participating in an SCA.
  - Failure of signatories or partners to meet their SCA commitments.
  - Failure of the conservation effort, resulting in changes in species status that could warrant consideration of federal listing.

## **Incentives to participate – What’s in it for me?**

Conveners and stakeholders may have a variety of incentives and motivations for participating in an SCA. Participants will want to clarify for themselves their motivations and the incentives they will need in order to participate. Different levels of incentives might be needed just to get people “to the table” vs. for implementing the signed SCA. The following list is not exhaustive, but provides a general outline and examples in each category.

- *Securing tangible benefits*, such as technical assistance, services, or priority points in applications for funding mechanisms, such as the Farm Bill or Partners for Wildlife programs.
- *Securing economic and financial benefits*, such as compensation, access to federal or state funding, tax breaks, entrepreneurial opportunities, or efficient leveraging of resources.
- *Securing recognition and social benefits*, such as stewardship certification, credit and increased credibility, and/or opportunities for building relationships.
- *Securing political benefits*, such as an ability to influence decisions, meeting legal requirements, local control, or more effective planning.
- *Securing management and ecological benefits*, such as information sharing; achieving a better understanding of, and agreement on, the biology of species and systems; the flexibility to manage, maintenance of open space; and limiting habitat degradation by minimizing or mitigating the effects of urban/suburban sprawl.
- *Making life easier and more rewarding*, with certainty, clear and simple participation requirements, one-stop-shopping and process streamlining, less regulation, opportunities to enjoy the effort, reduced risk, and enhanced recreation opportunities.
- *Avoiding the need to use more prescriptive regulatory mechanisms*, such as federal listing under the ESA; other federal, state, or local government regulations; or the potential for third-party legal actions to force regulatory conservation. These same mechanisms also provide a safety net that can be used in the event that implementation of the SCA does not adequately meet the conservation needs of the target species, habitats, or ecological systems.

## **The Written Agreement – It’s all in the details**

The written SCA and/or its supporting documents should include:

- Identification of, and agreement on, conservation needs and factors affecting species status (or factors relevant to a suite of species or ecological communities, depending on the focus of the SCA).
- Quantified goals and objectives that are measurable.
- A description of the adaptive management, monitoring, and evaluation protocols for the SCA, based on the best available knowledge and science.
- Delineation of the expectations of all partners, and commitments from each, including, but not limited to, the following:
  - Funding and staffing, including a review of all possible funding sources.
  - Implementation—the actions to be taken and who does what, when, and the method of accountability for these.
- A description of how the public will be involved in implementing the SCA.
- A description of the method for resolving conflicts.
- An entry and withdrawal process for participants in the SCA.
- A description of how the SCA will be considered in the planning processes of the individual partners, and linkages between the SCA and other plans and planning processes.
- A description of any assurances desired by signatories, and the degree to which those assurances can be provided.
- A statement of what will constitute success for the signatories, including thresholds based on biological targets and decision points within the adaptive management protocols. At the same time, stakeholders will recognize that ecological systems and species need ongoing, evolving, adaptive stewardship. Achievement of the defined success will result in transition to a maintenance plan, including an offloading of management imperatives into land management plans and/or a plan for the institutionalizing the SCA in the long term. Further commitments for additional conservation efforts are not expected to be necessary when success thresholds for the SCA have been met.
- A description of roles and functions, defining any differences between those of signatories to the SCA and those of participants in the process. Not all stakeholders or interested parties must be signatories, and non-signatories may participate in implementation.

## **Criteria for evaluating an SCA before signing it – Testing for adequacy**

- Is there sufficient certainty that the SCA can and will be implemented?
  - Do the participants recognize the time required to accomplish the goals and objectives, and have they assessed the long-term feasibility of the management approach?
  - Does the SCA provide enough flexibility for landowners to manage their lands?
  - Can other stakeholders interested in implementation participate easily and effectively?
  - Does the SCA address the fact that some of the stakeholders involved will inevitably change in the long-term, as new partners emerge and others are replaced?
  - Is the SCA operationally and economically practical?
  - Does the SCA meet/comply with existing laws and regulations?
  - Do the signatories have the legal and/or decision-making authority necessary to implement the SCA?
  
- Is there sufficient certainty that the SCA will be effective in conserving the target species and/or ecological systems?
  - Is the SCA reasonably likely to meet the conservation goals and objectives for the species and/or ecological systems?
  - Is the SCA based on the best available science?
  - Does the SCA sufficiently describe adaptive-management strategies that are reasonable, logical, and straightforward, and which can be implemented without undue confusion or controversy? At a minimum, the adaptive management framework should include appropriate protocols for administrative and management processes, and for monitoring and measuring (evaluating) progress through objective (preferably quantitative) standards or benchmarks.
  - Do the SCA and its adaptive management protocols adequately address how conflicts among signatories and/or partners will be discussed and resolved?

“What will happen 20 years from now? I see two pictures: in one, the USFWS and NMFS are bogged down, trying to be all things to all political groups, and so they have the confidence of no group. They are adverse to risk-taking. Their morale is low. They are spending more time listing species and defending lawsuits, without money and manpower to do what is needed. State agencies are still waiting for a pot of money. 59% of the land is privately owned with no incentive to do good.

The other? USFWS is full of bright people in high places of authority. They are not averse to risk-taking. There are lots of state agencies getting ahead of the curve, supporting nongame programs. Private landowners are stepping up to the plate. The public is insistent that groups work together.”

—A Chicago participant

## APPENDICES

### **Landowner Conservation Tools**

### **SCA Workshop Participants**

### **The Species and Conservation Tool Continuum (inside back cover)**

# Landowner Conservation Tools Available from the USFWS and NMFS

	Candidate Conservation Agreements	Candidate Conservation Agreements with Assurances
Purpose of the tool	To conserve species through partnerships with private landowners	To conserve species by removing enough threats to species preclude the need to list and provide incentives to conserve species through regulatory assurances
Participants	Anyone	Non-federal entities, government or private
Species covered	Proposed, candidate, or species likely to become candidates	Proposed, candidate, or species likely to become candidate
Standard that must be met	Proactive conservation of species	The benefits of the conservation measures implemented, when combined with those benefits if it is assumed that conservation measures were also to be implemented on other necessary properties, would preclude or remove the need to list the species covered by the agreement.
Assurances provided to signatories	None	<ul style="list-style-type: none"> <li>Will not be asked to do more than agreed to in the CCAV even if the covered species is listed in the future</li> <li>No additional take restrictions will be imposed if the species is subsequently listed</li> <li>Issued a Section 10(a)(1)(A) Enhancement of Survival Permit that authorizes take</li> </ul>
Benefits for species	Removal of threats to survival, improvement of population status	Removal of threats to survival, improvement of population status
Benefits for landowners	<ul style="list-style-type: none"> <li>The intrinsic benefit of conserving species</li> <li>Reduced cost of recovery should the species be listed</li> </ul>	<ul style="list-style-type: none"> <li>Flexibility</li> <li>Umbrella agreements with states with certificates of inclusion for landowners facilitate the process and buffer landowners from bureaucracy</li> <li>If the species is not listed: <ul style="list-style-type: none"> <li>certainty that they will not have to do anything more because</li> </ul> </li> <li>If the species is subsequently not listed: <ul style="list-style-type: none"> <li>they have already done their part</li> <li>reduction of the cost of recovery</li> </ul> </li> </ul>
Number in effect by August 2001	Forty-four agreements have been signed since 1997.	The policy went into effect in June 1999, and one agreement has been completed since then. More are under development.
Examples	Copperbelly watersnake; Arizona bugbane. In both cases, the agreements have precluded the need to list the species	Columbian sharp-tailed grouse



Shaded Harbor Agreement (SHA) with Private Property Owners	Habitat Conservation Plan (HCP)
Provide incentives to conserve listed species and contribute to the recovery of the species, by using regulatory flexibilities	Conserve species while providing a mechanism to allow economic development to continue
Non-federal entities, government or private	Non-federal entities, government or private
Listed species	Must include a listed species; can also include non-listed species
Conservation benefit that contributes to species recovery	Applicant will minimize incidental take and mitigate to the maximum extent practicable.
Will not be required to commit additional land or financial compensation beyond the level of mitigation that was otherwise provided for under the terms of an SHA. The property can return to baseline conditions on the property at the end of the term of the Agreement and its associated enhancement of survival permit - Section 10(a)(1)(A) permit	Will not be required to commit additional land or financial compensation beyond the level of mitigation that was otherwise adequately providing for the species under the terms of a properly functioning HCP. A Section 10(a)(1)(B) incidental take permit will be issued.
Contributes to the recovery of the species for the duration of agreement, through: Reduction of habitat fragmentation and enhancement of habitat Creation of buffers and corridors Experimentation with conservation measures	Impacts to the species are minimized and mitigated; habitat fragmentation rates may be reduced; habitats may be preserved, enhanced, or restored; the plan may achieve multi-species, comprehensive conservation. Key habitat areas are protected for the long-term.
Regulatory certainty that they can return to baseline conditions Regulatory certainty that they won't be penalized for doing good things for species Umbrella agreements with states through certificates of jurisdiction for landowners facilitate the process and buffer landowners from bureaucracy Management flexibility is retained	<ul style="list-style-type: none"> <li>⌘ Local solutions</li> <li>⌘ Can proceed with economic development</li> <li>⌘ Regulatory certainty that the government won't ask for more commitment of resources or mitigation activity</li> <li>⌘ Ability to plan for the long term</li> <li>⌘ Flexibility</li> </ul>
The first agreement was developed in 1995 for the red-cockaded woodpecker. There are now 12 permits in effect for over 125 individual SHAs.	Currently there are over 300 HCPs in effect for 200 listed species.
Red-cockaded woodpeckers in North Carolina; Golden-crowned kinglet and black-capped vireo in Texas; Northern Idaho ground squirrel in Idaho	Northern spotted owl in Washington; Scrub jay in Florida; Karner blue butterfly in Wisconsin

# State Conservation Agreements Workshop Participants

Note: participation does not imply endorsement of the resulting draft concept for SCAs.

**CONSERVATION ORGANIZATIONS:** *American Bird Conservancy:* Bob Altman (OR), Jane Fitzgerald (MO) ■ *American Fisheries Society:* Chris Keleher (UT) ■ *Applied Ecological Services:* Steve Apfelbaum (WI) ■ *Audubon Society:* Karen Etter Hale (WI), Bill Little (KY), Rich Paul (FL) ■ *Black Bear Conservation:* Paul Davidson (LA) ■ *Chicago Botanic Gardens:* Susan Masi (IL) ■ *Defenders of Wildlife:* Marc Bonta (OR), Minnette Johnson (MT) ■ *Ducks Unlimited:* Scott Manley (AR) ■ *Environmental Defense:* Robert Bonnie (D.C.) ■ *Grand Canyon Trust:* Taylor McKinnon (AZ) ■ *National Wildlife Federation:* Tom France (MT), Kim Graber (CO), Doug Inckley (VA) ■ *Pacific Coast Joint Venture:* Bruce Taylor (OR) ■ *Pure Fishing:* Jim Martin (OR) ■ *Quail Unlimited:* David Howell (IN) ■ *Rocky Mountain Elk Foundation:* John Mechler (TN) ■ *Sierra Club:* Jane Feldman (NV), Brian Myres (KY), James Olson (WI), Rose Strickland (NV) ■ *Tennessee Conservation League:* Mike Butler (TN) ■ *The Nature Conservancy:* Kathryn Flynn (AL), Derek Johnson (WI), Jimmy Kagan (OR), Steve Lindeman (VA), Jeff Sole (KY), Martin Street (MS) ■ *The Conservation Fund:* John Turner ■ *Waupaca Field Station:* Deb Martin, Robert Welch (WI) ■ *Western Land Trust:* Michael Van Ness (VA) ■ *Wildlife Conservation Society:* Jim McDougal (NY) ■ *Wildlife Management Institute:* Len Carpenter (CO), Bob Davison (OR), Don McKenzie (AK), Rob Manes (KS), Scot Williamson (NH)

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**OTHER:** *Animas Foundation and Malpai Borderlands Group:* Ben Brown (NM) ■ *People for Cochise County, AZ:* John and Jeri Ligon, Rachel Thomas ■ *Wisconsin Woodland Owners Association:* Nancy Bozek ■ *Individuals:* Jerold Apps (WI), Bob Harryman (MO)

# Species and Conservation Tool Continuum

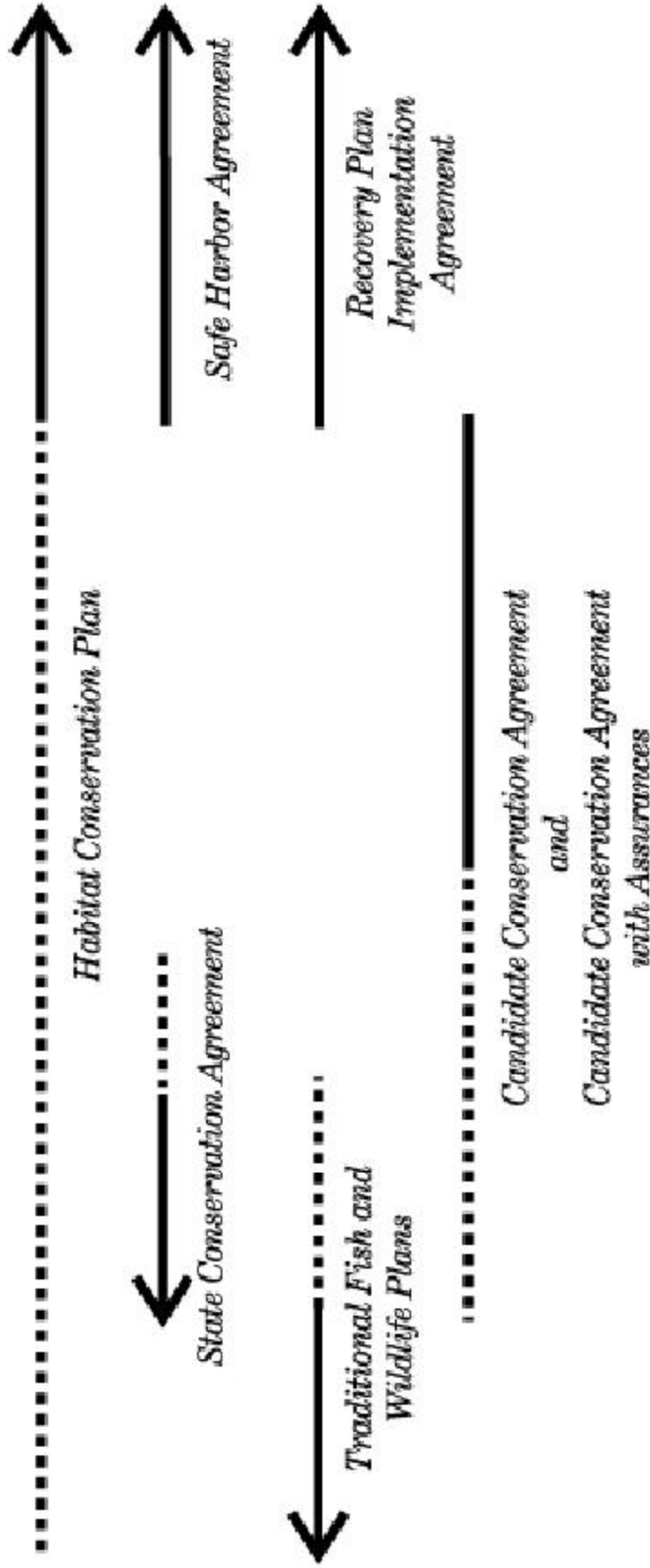
(44,359 Total Species Ranked)

## Species' Status

Abundant	(10,224) At Risk, Of Concern, Declining	(5,000) Imperiled	(258) Candidate	(59) Proposed	(273) Threatened	(971) Endangered
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## Conservation Tools



(Sources: AB/TNC/NHP and FWS)  
January 23, 2001



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